

Social responsibility of a municipal enterprise

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Abstract— CSR (Corporate Social Responsibility) is a concept that fundamentally changes the approach to relations with stakeholders, and it is not about strictly business relations. It is also not about obligations or some kind of compensation for the negative effects of the company's business activity. The essence of this concept is the requirement to understand that the company has not only obligations towards its owners, but also towards society. The idea of corporate social responsibility corresponds in a model way to the mission and objectives of a municipal enterprise performing tasks of a public utility nature, because theoretically there is no conflict of interests between the owners and its clients. Therefore, an important research problem is the search for an answer to the question: Who benefits the most from the activities of a municipal enterprise? Are they members of the local government community (residents) who are the actual owners of the municipal enterprise

Keywords— corporate social responsibility, municipal management, municipal enterprise, municipal company

I. INTRODUCTION

Independence, self-government and self-financing are the three basic principles on which the operation of enterprises in Poland is based. This means that enterprises themselves decide on the scope of activity, type and conditions of sale of their products, as well as the goals of undertaken projects and the distribution of profits. The activity of an economic entity is carried out in two areas of activity: current (exploitation), in which it uses its resources to obtain products that it offers to consumers, and development (mainly investment), used to increase resources. The resulting relationships result in close interdependencies between these types of activities, and their ultimate goal is to achieve an economic effect identified with a financial surplus, understood as the difference between the result obtained and the expenditure necessary to obtain it in a given period. Generating a financial surplus is a necessary

condition for the implementation of the basic objective of the existence of an economic entity, which is the increase in its value and, consequently, the increase in the wealth of its owners. If this goal is achieved, which of course is not certain, then the greatest benefits in the strict sense of the existence of the company are for its owners.

CSR (Corporate Social Responsibility) as a concept is identified with the achievements of the economic thought of the 20th century, including management, sociology, psychology and other sciences. However, this is a narrow approach, because it does not include the axiological approach, from which moral behaviors and attitudes result from the natural state, and not from the expected benefits. The problem was already of interest to Adam Smith, who in *The Theory of Moral Sentiments* dealt with the importance of morality for the proper functioning of the market economy. In 1891, the encyclical *Rerum Novarum* was published, in which Pope Leo XIII pointed to the essence of ethics in the relationship between employer - employee - state.

Including social goals in the set of economic goals significantly complicates the functioning of an enterprise from the municipal sector, operating in the field of municipal economy. It should be noted that companies established by communes for the implementation of tasks in the field of public utility, based on the principles contained in the Code of Commercial Companies, in practice encounter obstacles limiting their development opportunities and increasing competitiveness. The indicated problem does not only concern the contradiction between economic and social objectives, it also includes conditions resulting from the subject of activity, the most difficult of which are related to the environmental protection objectives required to achieve. Considerations on the above-mentioned issues must also take into account the importance of the relationship between the municipal company (municipal enterprise) and the local community. The mentioned

relationship concerns the relationship between the residents, the actual owners of municipal property, and the municipal company carrying out tasks in the field of public utility. Therefore, there is a specific area characteristic of the social responsibility of a municipal enterprise, the study of which should also include an answer to the question of whether members of the local government community, as owners of a municipal enterprise, benefit the most from its activities.

The aim of the article is to present the functioning of a municipal enterprise in the light of the concept of corporate social responsibility. An attempt was also made to answer the research question: Who benefits the most from the activities of a municipal enterprise?

To achieve the goal, the method of deduction supported by reasoning by analogy, analysis of the literature on the subject and the legislation regulating the researched issue were used.

The article is divided into five parts. The first part is an introduction, the second part presents the emergence and development of the concept of corporate social responsibility. The third part analyzes the conditions of functioning of a municipal enterprise. The fourth part includes considerations regarding the social responsibility of a municipal enterprise and an analysis of the relationship between the municipal company, municipal authorities and residents. Part five is the conclusion.

II. 2. CORPORATE SOCIAL RESPONSIBILITY

Human activity in the economic sphere (entrepreneur) is associated with the use of resources, in the classic sense of land, work and capital. In Polish law, there is a concept of an entrepreneur, Art. 4 of the Act on Freedom of Economic Activity (Journal of Laws of 2013, No. 0, item 672), which should be understood as a natural person, a legal person, an organizational unit without legal personality, to which a separate act grants legal personality, as well as partners in a civil law partnership as long as they carry out economic activity on their own behalf. In economic life, an entrepreneur is understood as a natural person who, with the help of an enterprise, conducts business activity, which, next to households and the state, are the basic subject of the modern market economy. In the literature on the subject, there is no uniformly defined concept of an enterprise, hence the definition from Art. 55 of the Civil Code, according to which an enterprise is an organized set of intangible and tangible assets intended for conducting business activity. There are several definitions of economic activity in Polish law. In Art. 2 of the Act on Freedom of Economic Activity: Economic activity is a gainful manufacturing, construction, commercial and service activity as well as prospecting, appraisal and extraction of minerals from deposits, as well as professional activity performed in an organized and continuous manner.

The economic activity of enterprises in the real process leading to the production of real goods as a result of the transformation of resources causes changes in the environment, which, apart from the positive dimension, also bring negative effects. The dynamic development of enterprises in the 20th century was accompanied by an increase in the frequency of

negative effects, some of which formed negative social and economic phenomena. Exclusion, burnout, depression, injustice, corruption, unfair competition, price fixing and, above all, environmental degradation are difficult to estimate in terms of costs, because their negative effects are usually local and recognizable and are felt in the long term. It is these problems, which are the side effects of the activities of enterprises, that have influenced the search for solutions by management theoreticians and practitioners to the above-mentioned problems or preventing their occurrence. As a result of the search, the concept of corporate social responsibility was born (Markiewicz, 2010, p. 39).

The concept of "social responsibility" was first used and defined in 1953 by HR Bowen in the book *Social Responsibility of Businessman* as "the duty of managers to conduct such policies, make such decisions and set such directions of business activities that will be consistent with the goals and values society" (Żurek, 2013, p. 143). In the following years, many definitions of corporate social responsibility were formulated. M. Friedman believed that "there is only one kind of social responsibility on the part of the business world - to use its resources and undertake activities to increase its own profits as long as it remains within the rules of the game" (Friedman, 1993, p. 127-128).

The concept of corporate social responsibility is attributed to three meanings in the literature:

- respecting the interests of all reference groups when making economic decisions,
- management compensating for conflicting interests, and seeking opportunities to balance conflicting interests,
- generating sufficient profits as a condition for conducting additional social activities. (Kreikebaum H. 1997, pp. 208-209).

Although the components of the concept are not formulated precisely and it is not known what should be understood, for example, by "sufficient profit" or how to look for the possibilities of balancing the conflicting ones, the idea contained in the slogan became the object of many scientific considerations in the 1970s, such as economists like A. Picot, H. Steinmann, H. Ulrich or H. Bohm. The definition of socially responsible business conduct proposed by the latter, despite the criticism that it covered only large enterprises, was accepted as a good reflection of the content of this concept: "top management in large enterprises must be aware that their decisions concern various reference groups of the enterprise. As far as possible, anything that could harm the interests of these groups should be avoided. In a situation of conflicting interests, it should be the task of the management to balance them fairly." (Kreikebaum, 1997, p. 210).

In the definition of corporate social responsibility, J. McGuire states that "the enterprise bears not only the economic and legal responsibility required of it, but is also to some extent responsible to society as a whole" (Za: Markiewicz P. 2010, p. 39).

K. Davis and R. Blomstrom combine social responsibility with "the management's obligation to make such decisions and actions that contribute both to the care of their own interest

(multiplying the company's profit) and to protecting and multiplying the well-being of society" (Markiewicz, 2010, p. 39).

An interesting definition of corporate social responsibility was formulated by AB Carroll, who, based on the pyramid model, distinguished four levels of corporate responsibility: economic and legal, which society requires, ethical, which society expects, and philanthropic, which society considers desirable (Markiewicz, 2010, pp. 39-40).

The definition of corporate social responsibility is included in the International Standard ISO26000, according to which it is the responsibility of the organization for the impact of its decisions and activities on society and the environment through transparent and ethical conduct that (pkn.pl):

- contributes to sustainable development, including the health and well-being of society;
- takes into account the expectations of stakeholders (individuals or groups who are interested in the decisions or activities of the organization);
- is compliant with applicable law and consistent with international standards of conduct;
- is integrated with the activities of the organization and practiced in its activities within its sphere of influence.

It applies to all organizations - public, private and non-profit - regardless of their size and location, operating in developed and developing countries. It is not limited to corporate social responsibility (CSR) but also covers issues of ethical behavior in business.

According to ISO 26000, the perception of an organization as socially responsible and its actual activities in the field of social responsibility may affect (pkn.pl):

- competitive advantage;
- the reputation of the organization;
- the ability to attract and retain employees, consumers, customers, users;
- employee morale, commitment and performance;
- opinions of investors, owners, donors, sponsors and the financial community and
- the organization's relationships with businesses, government institutions, the media, suppliers, similar organizations, customers, and the community within which the organization operates

The European Commission, in its Green Paper, defines corporate social responsibility (CSR) as a concept "according to which enterprises voluntarily take into account social and environmental issues in their commercial activities and relations with stakeholders (Commission of the European Communities, 2001, p. 4). The European Commission believes that social responsibility should become an integral part of company management and everyday practice (Rybak, 2004, p. 10).

In the last seventy years, when the concept of corporate social responsibility (business) was being shaped, the question was often asked whether enterprises should act only in the best interest of their owners, or should they also be responsible for the well-being of their employees, customers and the

communities in which they operate? They undoubtedly have a moral responsibility to ensure safe working conditions, avoid air and water pollution and produce safe products. However, pro-social activities are costly and it is doubtful whether companies would bear these costs voluntarily. If some actually do this and others do not, the former will be at a disadvantage in attracting capital, so such action must be mandatory rather than voluntary. (Brigham, Houston 2005, pp. 39-40). Attention should be paid to the fact that currently the pressure of the society represented by the so-called public opinion is so strong that the actions of enterprises contrary to the idea of social responsibility would be a market failure for them.

An interesting issue, in the context of considerations regarding corporate social responsibility, is the functioning of a municipal enterprise due to the specificity of the relationship between all stakeholders.

III. CONDITIONS OF FUNCTIONING OF MUNICIPAL COMPANIES

There is no concept of a municipal company in the Polish legal order. This term is used by scientists, practitioners of local government life, representatives of social and civic organizations, mass media and politicians. This discrepancy makes it difficult to accurately understand the content of a municipal enterprise, referred to as a municipal company (Dolewka, 2022, p. 1). In the author's opinion, such an approach is appropriate, in particular, for companies carrying out tasks in the field of public utility.

The system, the scope of activity, as well as the tasks and competences of the commune authorities are specified in the act on commune self-government. It also regulates the basic principles of establishing local law and supervision over municipal management, and what is important, it has the character of absolutely binding norms. The concept of municipal economy has been defined by the legislator very generally in Art. 1 of the Act on municipal economy. The word "economy", if combined with the term "municipal", includes "all forms of using the property of local government units, both direct production, production, provision of services and organization of these processes" (Pyziak-Szafnicka, Płaszczyk, 1995, p. 15). The adjective municipal means self-government, local, municipal, social (Sadowska, 2018, p. 85). In this context, the term social in relation to the notion of communal is important. Municipal management is the performance of public utility tasks in order to meet the collective needs of the community. It includes, in particular, tasks of a public utility nature, the purpose of which is to meet the collective needs of the population on an ongoing and continuous basis by providing publicly available services (Article 1(1) and (2) of the Municipal Management Act). Such wording means that the nature of local government implies the obligation to provide and provide public services, but this must be done with due care for their availability and standard. The term "public matters of local importance" adopted in the commune act, however, has a broader meaning and is more capacious than the concept of public services. Therefore, it can be presumed that the scope of the commune's activities thus adopted includes all activities

for the broadly understood local development. In fact, the obligation of the commune authorities to ensure the best possible standard of living for the residents of the self-government community. The basic meaning for the objective formulated in this way is the good provision of the area with technical and social infrastructure devices, which create a convenient location for investors and residents. The dominant part of public tasks is performed on the basis of infrastructural facilities, the development of which, in turn, determines the development of the commune's economy. In order for a local government unit to be able to perform these tasks, the legislator has equipped it with attributes that can be treated as instruments for their implementation. Having their own property, finances separate from the state and their own independent administration. According to Art. 43 of the Act on Commune Self-Government "Communal property is property and other property rights belonging to individual communes and their associations, as well as property of other communal legal persons, including enterprises." It is owned by the local government community.

The law also allows full freedom in choosing institutional, organizational and legal solutions in the process of providing public services. One of these solutions is the possibility for communes to create municipal enterprises through which they carry out their own tasks, investment projects, programs (e.g. in environmental protection) and ensure the supply of services. They are, therefore, a policy instrument serving the most important goal, which is to increase the standard of living of the inhabitants, i.e. also benefit from the community's assets.

Municipal companies already have a relatively long history. As the first formally separated organizational unit of local government, a municipal gas company was established in England (Manchester) in 1817, "and the first municipal enterprises developed on a larger scale were English waterworks" (Kończowski, Ratajczak, 2017, p. 28). In Poland, the intensive development of municipal entrepreneurship took place after regaining independence in 1918, because despite disputes between the supporters of municipal entrepreneurship and its opponents, the legislator of the Second Republic of Poland left full freedom to the local government in undertaking economic activity. In the current legal status, as in the period of the Second Republic of Poland, the choice of the field of operation of a public utility municipal enterprise, the organizational and legal form in which it is to operate, the objectives and tasks of the enterprise and its equipment are made by the decision-making bodies of local government units (LGU). Municipal utility companies, in accordance with art. 2,9 of the Act on municipal management, may be run independently by local government units, constituting its total ownership (as part of the budgetary economy of the local government or in the form of commercial law companies (Kończowski, Ratajczak, 2017, pp. 38-39).

A municipal enterprise most often functions as a public utility company. According to Art. 6 of the Act on State Enterprises:

1. Public utility enterprises are primarily aimed at current and uninterrupted satisfaction of the needs of the

population. In particular, these enterprises are aimed at the production or provision of services in the field of:

- 1) sanitary engineering;
 - 2) municipal transport;
 - 3) supplying the population with electricity, gas and heat;
 - 4) management of state housing resources;
 - 5) management of state green areas;
 - 6) (repealed)
 - 7) funeral services and maintenance of cemetery equipment;
 - 8) cultural services.
2. The founding body, within the limits of applicable regulations, defines the scope and conditions under which public utility companies are obliged to provide services to the public.
 3. The founding body is obliged to subsidize the activity of a public utility enterprise whose activity is unprofitable, but necessary due to the need to meet the needs of the population.

4. The Council of Ministers, by way of an ordinance, defines the conditions and principles of operation of public utility companies.

Transferring this interpretation to a municipal enterprise may raise doubts, as it applies only to entities operating solely on the basis of the Act on State Enterprises (Aziewicz et al. 1993, p. 8), however, the legislator in Article 1(1) and (2) of the Act on Economic municipal council calls the commune's own tasks public utility tasks. "The basic problem is to define the boundaries of the public utility sphere in the economy. The scope of this sphere is determined by both social, economic and technical conditions" (Sadowy 1991, pp. 9-10, Klimek, 2017, p. 35):

- "meeting collective needs
- basing activity on the basis of public assets
- no equivalence
- no profit oriented attitude
- requirement for public funding.

Utilities often function as a natural monopoly. The most important features of municipal enterprises (municipal companies), especially those that affect the management method, are considered to be: "monopoly market position, non-market pricing method, low price flexibility, territorial limitation of the activity, continuous work, high capital intensity of assets "strong social and political impact of the environment on the company, strong economic and social impact of the company on the environment" (Klimek 2017, p. 35).

ST units may be created by limited liability companies and joint-stock companies. A particularly attractive organizational form for the activities of local government units is a limited liability company. Its activity is not directly related to the budget of the local government unit, and the company is responsible for its liabilities with its own assets. According to many economists, their organizational structure is conducive to a more effective and rational use of resources, including municipal assets. It should be noted that in the form of a limited liability company, local governments (especially in larger communes) also perform tasks in the field of public utility.

Theoretically, municipal companies are equal participants in economic life with private enterprises. However, it should be remembered that municipal enterprises (municipal companies) should play a subservient role towards local communities, which makes them "missionary" companies by definition (Dolewka 2017, pp. 61-63).

IV. THE SPECIFIC NATURE OF THE RELATIONSHIP BETWEEN THE LOCAL GOVERNMENT COMMUNITY AND THE MUNICIPAL COMPANY

In Poland there are about 3,500 municipal companies in operation. Due to the fact that they use municipal property, their activities are subject to the supervision of the Supreme Audit Office. The NIK report on the study of municipal companies operating in the Lower Silesian Voivodeship, the results of which obviously cannot be generalized to all functioning municipal companies, shows that one of the main problems is the incorrect functioning of ownership supervision. The main problem here is the lack of formalized supervision rules and lack of monitoring of the proper performance of duties (lex.pl).

Municipal companies usually operate in the area of a local government unit, most often the commune that decided to establish them, or several communes that have concluded an agreement on the implementation of a specific public task. Therefore, the direct customers (recipients) of the services offered by municipal companies are residents of a specific local government community. It can even be said that these are the actual shareholders of those companies who are represented at the general meeting of shareholders by the executive body of the commune. Hence, the main goal of municipal companies performing a public utility task should be to meet the collective needs of the community, and not to maximize profit. From the point of view of a resident, the optimal situation would be for the revenues and total costs of the municipal company to be balanced to zero. (Dolewka 2017, p. 70). Such a situation would mean that as a result of the provision of municipal services, the wealth of the self-government community increases.

Is this really the case and the residents benefit the most from the existence and operation of municipal enterprises? Unfortunately not, because generally public services are subject to critical assessment that they cost too much and their standard is not desirable (Wojciechowski, 2003, p. 159). At the same time, there is no pressure to change, because there are groups interested in consolidating the existing state. An important element is also the low awareness of collective ownership of property, which additionally decreases with the increase in the size of the commune. (Wojciechowski, 2003, p. 163). Besides, there's always the argument that change doesn't guarantee an improvement worth using scarce resources. In these conditions, representatives to the municipal authorities elected by the local community and the party and non-party bodies gathered around them, often identified with the local elite, have practically a free hand in managing the municipal enterprise.

Of course, there are municipal enterprises managed at a high level, often higher than private enterprises, because they are well organized and have qualified staff identifying with the enterprise. They provide high-quality products, they also

initiate good projects aimed at benefiting residents in the form of higher quality, possibly inexpensive and a wider range of services. Unfortunately, public projects often implemented by municipal companies, in addition to all risk categories, are also affected by the political risk characteristic of them. The source of this risk, which often determines the success of such undertakings, are the effects resulting from the mechanisms of power, the so-called defects of the power mechanism (Samuelson, Nordhaus, 2000, p. 209). These include: a short time horizon, resulting from the term of office of the authorities (successors have other priorities or, for political reasons or simple envy, they do not even implement good projects), political conflicts (electoral struggle) An important element of the risk of public projects undertaken is bureaucracy, for which they may pose a threat to its interests, impose high substantive requirements or increase the amount of work and responsibilities. Bureaucracy, with the means and methods available to it, can hinder, slow down, and sometimes even prevent the implementation of investment projects.

Taking into account the above problems in the risk assessment is difficult, and often even impossible, it results in a significant increase in costs and extension of the investment project implementation time, and instead of the expected benefits, it brings disputes leading to unnecessary divisions among residents. Examples of such projects are, unfortunately, environmental protection projects important for the functioning of local communities.

The idea of corporate social responsibility perfectly corresponds to the mission and goals of a municipal enterprise, because theoretically there is no conflict of interest between the owners and its customers. Unfortunately, the social responsibility of a municipal company usually boils down to responsibility towards employees who, for example, by the threat of strikes, can block restructuring beneficial for residents, i.e. owners, in terms of costs, quality of services, and liability. Without denying the arguments of any of the parties, i.e. employees, the company's board and the city authorities, the fact is that the greatest losses are suffered by the residents, despite the fact that everyone declares to act in their interest. According to the definition of H. Bohm, in a situation of conflicting interests, the task of the management should be to balance them fairly, but the management board does not have the appropriate competences, often qualifications, and besides, the residents are the weakest party and do not appoint the president or chairman of trade unions.

The overriding goal of the functioning of a municipal enterprise is the good of the community of residents of its owners, but it is often only a slogan invoked when it is convenient for those who exercise actual control over it and derive real benefits from its existence. The authorities tend to treat municipal enterprises instrumentally, using them as an element of the game and political struggle, and sometimes even as electoral loot. It would not be possible if the communal property was freed from the feature of anonymity, and thus ceased to be treated as a nobody's field. The awareness of having property by the community is also important because it affects the quality of the services provided, and this directly affects the standard of living of the residents. Some authors express the view that it is necessary to create a new organizational and legal form, adequate to the implementation

of public utility tasks, i.e. an intermediate form between a budgetary establishment and a commercial law company. According to E. Wojciechowski, "the solution could be a municipal public utility company with a separate economic and financial status, adapted to the specificity of its purpose" (Dolewka 2017, p. 71). The proposed solution is worth considering and developing a legal and economic concept, because the specificity of the functioning of a municipal enterprise that is not a local government budgetary entity and the nature of the tasks performed requires the creation of conditions that would take into account the presented specificity.

V. CONCLUSION

The final and expected effect of the business activity of the enterprise is obtaining maximum benefits by its owners. The obtained benefits were accompanied and are still accompanied by negative effects which have had and still have a significant impact on the functioning of society. Even in the 20th century, it was believed that the charitable activity of business owners is a sufficient and adequate cost for the negative effects suffered by society. In the last seventy years there has been a fundamental change in the approach to the indicated issue, including primarily the relations between all stakeholders of the company and the impact of its activities on the natural environment. Corporate social responsibility is currently a real phenomenon in the company's environment, which must be taken into account in management, regardless of its size and nature of legal and economic relationships with the local community. The European Commission believes that social responsibility should become an integral part of company management and everyday practice, which means that it should become the same element of strategic and current management decisions as survival, value growth, and profit maximization. The decisions and activities of the company should also serve to build positive and lasting relationships with the environment in which they operate. As it has been said, the idea of corporate social responsibility perfectly corresponds to the mission and goals of a municipal enterprise, because theoretically there is no conflict of interest between the owners and its customers. A municipal enterprise is part of the property of a commune, i.e. a specific community of residents, and constitutes the material basis for meeting its collective needs. Ownership functions are performed by the commune authorities, to which the local community delegates its representatives by election, who, as part of ownership supervision, should take actions to ensure the correct and effective use of the property entrusted to the municipal company. Effective supervision over the strategic and day-to-day management of a municipal company would most likely lead to offering residents high-quality services at the lowest possible cost. Members of the self-government community would benefit the most from a municipal enterprise functioning in such a way. Unfortunately, it is the representatives delegated by the residents (voters) who mainly benefit from the existence of municipal enterprises, and not their actual owners, although, what should be added, they are also most often members of the community of residents.

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